

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

SOFTEX LLC,

Plaintiff,

vs.

**ABSOLUTE SOFTWARE CORPORATION
AND ABSOLUTE SOFTWARE, INC.**

Defendants.

Civil Action No. 1:22-cv-01308-DE

JURY TRIAL DEMANDED

SOFTEX LLC,

Plaintiff,

vs.

**DELL TECHNOLOGIES INC. AND
DELL INC.**

Defendants.

Civil Action No. 1:22-cv-01309-DE

JURY TRIAL DEMANDED

SOFTEX LLC

Plaintiff,

vs.

HP INC.,

Defendant.

Civil Action No. 1:22-cv-01311-DE

JURY TRIAL DEMANDED

**SOFTEX LLC'S FIRST SET OF COMMON
REQUESTS FOR PRODUCTION TO ALL DEFENDANTS (NOS. 1-52)**

Pursuant to Rule 26 and 34 of the Federal Rules of Civil Procedure and the applicable Local Rules of the United States District Court for the Western District of Texas, Plaintiff Softex LLC ("Plaintiff") hereby requests Absolute Software Corp. and Absolute Software, Inc. (collectively, "Absolute"); Dell Technologies Inc. and Dell Inc. (collectively, "Dell"); HP Inc.

(“HP”) (collectively, “Defendants” or “You”) produce documents and things in response to the following requests in accordance with the Definitions and Instructions within thirty (30) days.

DEFINITIONS

1. “Absolute” means Absolute Software Corp. and Absolute Software, Inc., individually and collectively, including without limitation its subsidiaries, divisions, affiliates, predecessors, and any past or present directors, officers, agents, affiliates, representatives, employees, consultants, attorneys, entities acting in a joint-venture or partnership relationships with Absolute, and all other persons acting or purporting to act on behalf of Absolute.

2. “Absolute Functionality” means Absolute’s persistent theft detection software. This includes, but is not limited to, Absolute Home & Office, Absolute Computrace Persistence, Absolute LoJack, LoJack for Laptops, Absolute Visibility, Absolute Control, Absolute Resilience, and Computrace software. Absolute Functionality further includes any Absolute software identified in the Complaint against You, any amendments thereto, the Infringement Contentions against You, and any supplements or amendments thereto.

3. “Accused Features” means the functionality identified and discussed in Softex’s Complaint against You, and/or Infringement Contentions against You, Including any supplements or amendments thereto.

4. “Accused Instrumentality(ies)” means the products identified and discussed in Softex’s Complaint against You, and/or Infringement Contentions against You Including one or more Accused Features, Including any supplements or amendments thereto. Accused Instrumentalities include, but are not limited to, the following:

- a. As to Absolute, the Accused Instrumentalities include (“Absolute Accused Instrumentality(ies)”):

- i. the Absolute software, products, instrumentalities, and services identified in the Absolute Complaint, any amendments thereto, the Absolute Infringement Contentions, and any supplement or amendment thereto;
 - ii. each version, model, or variation of such software, products, instrumentalities, and services;
 - iii. computers, desktops, workstations, laptops, notebooks, tablets, or other devices used by Absolute receiving, incorporating, using, or capable of receiving, incorporating, or using Absolute Functionality;
 - iv. any computer, desktop, workstation, laptop, notebook, tablet, or other device incorporating receiving, incorporating, using, or capable of receiving, incorporating, or using any products, instrumentalities, and services identified in (i) or (ii) and further includes any products identified by Absolute in response to Individual Interrogatory No. 2 to Absolute; and
 - v. all products Identified in Absolute's response to Individual Interrogatory No. 1 to Absolute.
- b. As to Dell, the Accused Instrumentalities include ("Dell Accused Instrumentality(ies)"):
 - i. the Dell computers, desktops, workstations, laptops, notebooks, tablets, internet of things devices, or other devices identified in the Dell Complaint, any amendments thereto, the Dell Infringement Contentions, and any supplement or amendment thereto;
 - ii. each version, model, or variation of such products, instrumentalities, and services;

- iii. and each product made, used, sold, imported, offered of sale, and/or in development in the United States by Dell receiving, incorporating, using, or capable of receiving, incorporating, or using Absolute Functionality or Microsoft Functionality; and
- iv. all products Identified in Dell's response to Individual Interrogatory No. 1 to Dell.

c. As to HP, the Accused Instrumentalities include ("HP Accused Instrumentality(ies)"):

- i. the HP computers, desktops, workstations, laptops, notebooks, tablets, internet of things devices, or other devices identified in the HP Complaint, any amendments thereto, the HP Infringement Contentions, and any supplement or amendment thereto;
- ii. each version, model, or variation of such products, instrumentalities, and services;
- iii. and each product made, used, sold, imported, offered of sale, and/or in development in the United States by HP receiving, incorporating, using, or capable of receiving, incorporating, or using Absolute Functionality or Microsoft Functionality; and
- iv. all products Identified in HP's response to Individual Interrogatory No. 1 to HP.

5. "Action" or "this litigation" refers to the above-captioned actions for Absolute, Dell, or HP.

6. “Asserted Patents” means U.S. Patent Nos. 7,590,837 (“the ’837 Patent”), 8,516,235 (“the ’235 Patent”), 8,145,892 (“the ’892 Patent”), 8,287,603 (“the ’603 Patent”), 8,506,649 (“the ’649 Patent”), 8,137,410 (“the ’410 Patent”), and 8,128,710 (“the ’710 Patent”).

7. “Communication” or “Communications” means any written, verbal, or other transmission of fact, information, ideas or opinion, including, but not limited to, any utterance, notation, question, command, interjection, expression, gesture, suggestive conduct or statement of any nature whatsoever, any conversation (whether by telephone or otherwise), and any meeting and also including, but not limited to, correspondence, financial records, corporate records, reports, and documents.

8. “Complaint” means the Complaints filed in these cases and any amendments or updates thereto.

9. “Concerning” or “Relating to” means referring to, concerning, mentioning, reflecting, summarizing, evidencing, involving, describing, discussing, showing, pertaining to, responding to, supporting, contradicting, constituting, consisting, containing, comprising, composing, embodying, or commenting on, in whole or in part.

10. “Dell” means Dell Technologies Inc. and Dell Inc., individually and collectively, including without limitation its subsidiaries, divisions, affiliates, predecessors, and any past or present directors, officers, agents, affiliates, representatives, employees, consultants, attorneys, entities acting in a joint-venture or partnership relationships with Dell, and all other persons acting or purporting to act on behalf of Dell.

11. “Describe” when used in relation to an act, event, instance, occasion, transaction, conversation, or communication means: (i) to state the date and place thereof; (ii) to identify the individual participants; (iii) to summarize separately for each individual participant what was said

or done; and (iv) to identify each document used or prepared in connection therewith or making any reference thereto.

12. “Document” or “Documents” are used herein in their broadest sense as set forth in the Federal Rules of Civil Procedure. These words mean and include all written, printed, typed, recorded, or graphic matter of every kind and description, both originals and copies, and all attachments and appendices, within Your possession, custody, or control. Without limiting the foregoing, the terms “Document” and “Documents” shall include all agreements, contracts, communications, correspondence, facsimile, letters, opinion letters, telegrams, telefaxes, messages, memoranda, records, reports, books, summaries or other records of telephone conversations or interviews, summaries or other records of personal conversations or interviews, minutes, summaries, other records of meetings and conferences, statements obtained from witnesses, summaries or other records of negotiations, other summaries, diaries, diary entries, calendars, appointment books, time records, instructions, work assignments, forecasts, progress reports, statistical data, statistical statements, financial statements, work sheets, work papers, drafts, graphs, charts, tables, accounts, analytical records, consultants’ and experts’ reports, appraisals, bulletins, notes, notices, marginal notations, notebooks, telephone records, bills, statements, records of obligation and expenditure, invoices, lists, journals, printouts, compilations, tabulations, analyses, studies, surveys, expense reports, microfilm, microfiche, tape or disc recordings, sound recordings, video recordings, film, tape, photographs, programs, electronic mail (“e-mail”) and data compilations from which information can be obtained (including matter used in data processing), and other printed, written, handwritten, typewritten, recorded, stenographic, computer-generated, computer-stored, or electronically stored matter, however and by whomever produced, prepared, reproduced, disseminated, or made. The words “Document” and “Documents”

also include all copies of Documents by whatever means made, except that where a Document is produced, identical copies of it that do not contain any markings, additions, or deletions that are different from the original do not have to be separately produced.

13. “Entity” means all types and kinds of business or other entities, including, but not limited to, corporations, partnerships, joint ventures, associations, and sole proprietorships.

14. “Foreign Counterpart” refers to any and all non-U.S. patents or patent applications corresponding to, claiming priority from, referring to the subject matter of, or directed to the inventions claimed in the Asserted Patents, any Related Patent, or any Related Application, regardless of whether such application is now abandoned.

15. “HP” means HP Inc., including without limitation its subsidiaries, divisions, affiliates, predecessors, and any past or present directors, officers, agents, affiliates, representatives, employees, consultants, attorneys, entities acting in a joint-venture or partnership relationships with HP, and all other persons acting or purporting to act on behalf of HP.

16. “Identification,” “Identify,” “Identity,” or “Identifying” when used in reference to:

(a) a natural person, means: to state, to the extent known, (1) the person’s full name or title, last known address, e-mail address, and telephone number; (2) the person’s present employer(s) and place(s) of employment; and (3) the person’s job title or position held.

(b) an entity, other than a natural person, means: to state, to the extent known, (1) the name or title of the entity; (2) the type of entity; and (3) the present or last known address and telephone number of its business and/or organizational offices.

(c) a Document, means: to identify the Document by (1) its date, author, and addressee(s); (2) state the type of Document (e.g., letter, memorandum, etc.); (3) identify

its present location and identity of its custodian; and (4) identify the Document by its Bates number range.

(d) a statement, either written or spoken, means: (1) the substance of each such statement; (2) the exact words used by each person participating in the statement; (3) to identify each person engaging in the statement; (4) the identity of each person present at the making or reception of such statement; (5) the time and place of the statement; (6) the means of such statement (e.g., written, telephone, face-to-face, etc.).

17. “Including” means including, but not limited to.

18. “Infringe” and “Infringement” should be understood to include direct infringement, inducement of infringement, literal infringement, and infringement by the doctrine of equivalents.

19. “Microsoft Functionality” means each and every software version, product, instrumentality, and service that include any Windows’ “Find My” Functionality or software from Microsoft Corporation Identified in Plaintiff’s Complaints against You, any subsequent supplements or amendments thereto, Plaintiff’s Infringement Contentions against You, and any subsequent supplements or amendments thereto, and any future Microsoft Corporation instrumentality that is added to this case.

20. “OEM” or “Original Equipment Manufacturer” means a company that provides a product designed for end-users of the Accused Features and/or Accused Instrumentalities such as a laptop, including, for example, Dell, HP, Lenovo, Microsoft, Acer, ASUS, Daten, Fujitsu, GammaTech, General Dynamics, Getac, jp.ik, motion, MUSTEK, Panasonic, Positivo, Prestigio, Samsung, Dynabook, Yezz, Apple Inc., International Business Machines (“IBM”), etc.

21. “Parties” means the terms “Plaintiff” and “Defendants” as defined herein.

22. “Person” means all natural persons, male or female, and all types and kinds of business or other entities, including, but not limited to, corporations, partnerships, joint ventures, associations, and sole proprietorships and any reference to an individual person, either singularly or as part of a defined group, including that person’s employees, agents, legal representatives, non-legal representatives, personal representatives, attorneys, heirs, successors, assigns, and any other person or entity acting on the behalf of such individual person.

23. “Phoenix” means Phoenix Technologies Ltd., including without limitation their subsidiaries, divisions, affiliates, predecessors, and any past or present directors, officers, agents, affiliates, representatives, employees, consultants, attorneys, entities acting in a joint-venture or partnership relationships with Phoenix, and all other persons acting or purporting to act on behalf of Phoenix.

24. “Related Applications” means any and all applications relating to the Asserted Patents, including any continuations, continuations-in-part, divisionals, interferences, reexaminations, reissues, parents, Foreign Counterpart applications, and any other applications disclosing, describing, or claiming any invention disclosed, described, or claimed in the Asserted Patents, or claiming the benefit of the filing date of any application whose benefit is claimed in the Asserted Patents, whether or not abandoned and whether or not issued.

25. “Related Patent” means any patent application or issued patent filed or issued in any country or region (such as with the European Patent Office), including but not limited to foreign counterparts, continuations, continuations in part, divisionals, reexaminations, reissues, provisionals, parent applications or patents, child applications or patents, PCT applications, patents incorporated by reference, and any other applications disclosing, describing or claiming any invention disclosed, described or claimed in the Asserted Patents, or claiming the benefit of the

filing date or any application whose benefit is claimed in the Asserted Patents, whether or not abandoned and whether or not issued.

26. “Softex” means Softex LLC (“Plaintiff”) or Softex, Inc., individually and collectively, including without limitation its subsidiaries, divisions, affiliates, predecessors, and any past or present directors, officers, agents, affiliates, representatives, employees, consultants, attorneys, entities acting in a joint-venture or partnership relationships with Softex, and all other persons acting or purporting to act on behalf of Softex.

27. “Third Party” means any natural person, corporation, partnership, association, joint venture, government body, or other legal entity other than Plaintiff and Defendants.

INSTRUCTIONS

28. For each item or category, the response must either state that production will be made or state with specificity the grounds for objecting to the request, including the reasons. Any objection must state whether any responsive materials are being withheld on the basis of that objection.

29. If You believe that any of the following Requests calls for an assertion of a claim of privilege, answer so much of the request as is not objected to, state that part of each request to which You raise objection, and set forth the basis for Your claim of privilege with respect to such information You refuse to give.

30. Each of the definitions and instructions contained herein shall be fully applicable to each Request notwithstanding that a definition or instruction above may, in whole or in part, be reiterated in a particular Request and notwithstanding that a particular request may incorporate supplemental instructions or definitions. If You do not agree with any definition of the terms provided herein You are instructed to provide a reasonable, alternative definition for that term,

consistent with industry custom and usage. If You provide an alternate definition, indicate whether, and how, any answer to any request would differ if You instead relied on the definitions provided in these Requests.

31. You are to search all documents within Your possession, custody, or control, wherever located, including but not limited to any documents placed in storage facilities or in the possession of any employee, agent, representative, attorney, investigator, or other person acting or purporting to act on Your behalf (whether located at his/her residence or place of business), in order to fully respond to the Requests herein.

32. You are to produce documents from any single file in the same order as they were found in such file, including any labels, files, folders, and containers which such documents are located in or associated with. If copies of documents are produced in lieu of the originals, such copies should be legible and bound or stapled in the same manner as the original.

33. If You do not produce each document or thing requested herein as they are kept in the usual course of business, You must organize and label the documents or things produced to correspond with the particular document request to which the document or thing is responsive.

34. You are to produce all documents which are responsive in whole or in part to any of the requests herein in full, without abridgement, abbreviation, or expurgation of any sort, and regardless of whether You deem such documents to be irrelevant to the issues in the Case for which such documents are being sought. If any such documents cannot be produced in full, produce the document to the extent possible and indicate in Your written response what portion of the document is not produced and why it could not be produced.

35. You are required to produce not only the original or an exact copy of the original of all documents or things responsive to any of the Requests herein, but also all copies of such

documents or things which bear any notes or markings not found on the originals and all preliminary, intermediate, final, and revised drafts or embodiments of such documents or things.

36. You are also required to produce all versions of the foregoing documents stored by a computer internally, on disk, on CD-ROM, or on tape.

37. If no Documents are responsive to a particular request, You are to state that no responsive Documents exist.

38. If a Document is in a language other than English, You should provide that Document. If a Document is in a language other than English, and an English translation exists, You should provide both Documents.

39. You are to produce any purportedly privileged document containing nonprivileged matter, with the purportedly privileged portion excised or redacted.

40. If any of the documents requested herein are no longer in Your possession, custody, or control, You are requested to identify each such requested document by date, type of document, person(s) from whom sent, person(s) to whom sent, and person(s) receiving copies, and to provide a summary of its pertinent contents.

41. If any document responsive to these Requests has been destroyed, describe the content of such document, the location of any copies of such document, the date of such destruction, and the name of the person who ordered or authorized such destruction.

42. Electronic and computerized materials must be produced in an intelligible format or together with a description of the system from which it was derived sufficient to permit tendering of the material intelligible.

43. If any of the documents or things are considered confidential under the Local Rules or any forthcoming protective order, such documents or things should be produced subject to the terms and provisions of Local Rules or the protective order once in place.

44. If production of any document listed and described herein is withheld on the basis of a claim of privilege, each withheld document shall be separately identified in a privileged document list. The privileged document list must identify each document separately, specifying for each document at least: (1) the date of the document; (2) the author(s) and/or sender(s) of the document; (3) the recipient(s) of the document, including copy recipients; and (4) the general subject matter of the document. The sender(s) and recipient(s) shall be identified by position and entity (corporation or firm, etc.) with which they are employed or associated. If the sender or the recipient is an attorney or a foreign patent agent, he or she shall be so identified. The type of privilege claimed must also be stated, together with a certification that all elements of the claimed privilege have been met and have not been waived with respect to each document.

45. These discovery requests shall be deemed continuing, requiring Absolute to serve supplemental answers and documents and things promptly in accordance with Federal Rule of Civil Procedure 26. Such documents and things are to be produced as soon as is reasonably possible after they are located or obtained.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All Documents Relating to or discussing the Accused Features and/or Accused Instrumentalities.

REQUEST FOR PRODUCTION NO. 2:

All Documents mentioning, concerning, or referencing Softex, Softex's Patents, Softex's employees (past and/or present), Apurva Bhansali, the Patents-in-Suit, Related Patents, and/or Related Applications.

REQUEST FOR PRODUCTION NO. 3:

All Documents Concerning Your future plans for the Accused Features and/or Accused Instrumentalities Including plans for the development of the Accused Features and/or Accused Instrumentalities and any planned or contemplated improvements, additions, new features, new functionality, updates, revisions, and alterations of the Accused Features and/or Accused Instrumentalities.

REQUEST FOR PRODUCTION NO. 4:

Documents sufficient to Identify all Persons involved in the design, development, operation, testing, and/or maintenance of the Accused Features and/or Accused Instrumentalities.

REQUEST FOR PRODUCTION NO. 5:

Documents sufficient to Identify the product names (both internal and external), the version, model, release numbers, dates of sale and discontinuance, and other Identifying information for each version, model and/or release of an Accused Instrumentalities or product that includes the Accused Features.

REQUEST FOR PRODUCTION NO. 6:

Documents sufficient to Identify the Person(s) most knowledgeable regarding the conception, creation, development, maintenance, testing, and operation of the Accused Features, Including each version, model, or release.

REQUEST FOR PRODUCTION NO. 7:

For each Accused Feature, Documents sufficient to show the facts and circumstances Concerning the first operational embodiment(s), the individual(s) involved in the design(s), the individual(s) involved in the decision to use/implement the design(s), the location(s) of the design(s), and transition from design to first commercial availability.

REQUEST FOR PRODUCTION NO. 8:

All Documents Identifying, describing, Concerning, or referencing the conception, benefits, development, testing, assessment, enhancement, modification, adoption, and implementation of each of the Accused Features, Including but not limited to:

- a) Correspondence or other internal Communications;
- b) Market studies or assessments;
- c) A/B Testing;
- d) Surveys;
- e) Focus group studies;
- f) Consumer testing;
- g) Web-based analytics (e.g. “Dashboard” reports);
- h) Feature goals and objectives;
- i) Proposals;
- j) Budgets;
- k) Internal reports;

- l) Cost estimates;
- m) Release schedules; or
- n) Other Documents.

REQUEST FOR PRODUCTION NO. 9:

The source code, executable software, and all Documentation for the Accused Features and/or included with the Accused Features (Including user's manual, EULA, support Documentation, etc.) for each version, model, and release of each of the Accused Features.

REQUEST FOR PRODUCTION NO. 10:

All Documents Identifying, describing, Concerning, or referencing the development, revision history, refinement, evolution, testing, and internal use of each source code file produced by You in this case (Including the geographic location (e.g. city, state and country) of such development, revision, refinement, evolution, testing, and internal use, the results, date and/or reason for each such revision, refinement, evolution, test, and/or internal use of each such source code file).

REQUEST FOR PRODUCTION NO. 11:

All Documents Identifying, describing, Concerning or referencing the use, operation, design, configuration, structure, technical specifications, function, and operation of the Accused Features (Including, but not limited to, Documents providing internal wikis, training, education, instruction, troubleshooting, or information to customers or other Third Parties on the operation of the Accused Features).

REQUEST FOR PRODUCTION NO. 12:

All Documents that disclose the revenues, costs, and profits derived by You from each Accused Instrumentality and Your Accused Features.

REQUEST FOR PRODUCTION NO. 13:

Any and all Documents Relating to any royalties for technologies that You contend are analogous or comparable to the invention of each of the Patents-in-Suit, including any and all agreements identifying such royalty.

REQUEST FOR PRODUCTION NO. 14:

All Documents showing how and to what extent You or Your customers or others use, operate, access, value, or benefit from the Accused Features (Including but not limited to any relevant customer-use studies, surveys, tracking data, or estimates).

REQUEST FOR PRODUCTION NO. 15:

All Documents (Including issued patents, file histories, etc.) that reference the Patents-in-Suit or a named inventor.

REQUEST FOR PRODUCTION NO. 16:

All Documents describing, concerning, or referencing the validity, invalidity, scope, liability for Infringement by You, enforceability, non-enforceability, or licensing (either implied or express) of any Patents-in-Suit and/or opinions thereof from the time You first became aware of each such Patent-in-Suit through trial in this matter.

REQUEST FOR PRODUCTION NO. 17:

All prior art, including Documents, that You allege anticipate, render obvious, or otherwise impact the validity of the Patents-in-Suit.

REQUEST FOR PRODUCTION NO. 18:

All Documents Identifying, describing, Concerning or referencing any Communications between You and any Third Party regarding the Patents-in-Suit or this litigation.

REQUEST FOR PRODUCTION NO. 19:

All Documents furnished or shown to any fact witness contacted, interviewed, or consulted by You or Your agents or attorneys in connection with the Patents-in-Suit or this litigation.

REQUEST FOR PRODUCTION NO. 20:

All Documents Identifying, describing, Concerning, or referencing any purported non-Infringing alternatives to the inventions, methods, systems, or apparatuses claimed in the Patents-in-Suit, Including but not limited to the Identification, availability, acceptability, and cost of using or implementing any such alternatives; the specific alterations that would be made to the Accused Features to effectuate such alternatives; and the steps, costs, and time required to develop and implement such alternative.

REQUEST FOR PRODUCTION NO. 21:

All Documents Concerning any effort or analysis by You to design or redesign the Accused Features so as to avoid Infringement of the Patent-in-Suit, the costs of all design around options analyzed, the time spent on such analysis, the estimated time to market for such a design-around, whether the design-around had or has any potential compatibility issues and, if so, the options analyzed to address those issues, whether the design-around had any impact (however measured) on the performance of the systems and services, and the estimated costs that such a design would have added to any product or functionality.

REQUEST FOR PRODUCTION NO. 22:

All Documents mentioning, Concerning, or referencing any Person Identified by You in Your Initial Disclosures (and any Amendments thereto).

REQUEST FOR PRODUCTION NO. 23:

All Documents Identifying, describing, Concerning, or referencing Your corporate policies, procedures, and actual practices, including those Relating to patent searches, patent

reviews, product clearances, right to use opinions, or other mechanisms, if any, to obtain licenses prior to general commercial availability of products and/or websites so as to avoid Infringement of patents, such as the Patents-in-Suit.

REQUEST FOR PRODUCTION NO. 24:

All Documents Concerning all completed or attempted license agreements, settlement agreements, covenants not to sue, and/or any other agreements conferring rights Concerning or covering the Accused Features or any products, patents, or functionalities related to those described in the Patents-in-Suit.

REQUEST FOR PRODUCTION NO. 25:

All Documents Relating to, Concerning, describing, or reflecting the actual or projected financial performance of the Accused Instrumentalities and Accused Features as they are evaluated and/or analyzed by you in the normal course of business.

REQUEST FOR PRODUCTION NO. 26:

All studies, surveys, forecasts, comparisons, reports, metrics, evaluations, analyses, or assessments Concerning or Relating to the Accused Features.

REQUEST FOR PRODUCTION NO. 27:

All Documents Concerning Your marketing, sales, promotion, and advertisement of the Accused Features, Including all Documents, bids, requests for proposal, marketing studies, promotional material, presentations, videos, television advertisements, magazine and/or trade journal advertisements, internet advertising, and radio advertisements Concerning said advertising and marketing.

REQUEST FOR PRODUCTION NO. 28:

All Documents Identifying, describing, Concerning, or referencing how You monetize the Accused Features or Accused Instrumentalities including the Accused Features or derive revenue from the Accused Features or Accused Instrumentalities including the Accused Features.

REQUEST FOR PRODUCTION NO. 29:

All Documents Identifying, describing, Concerning, or referencing the total amount, applicable royalty base, and applicable royalty rate paid by You to any Third Parties in connection with the Accused Features or any features that You contend are comparable to the Accused Features.

REQUEST FOR PRODUCTION NO. 30:

Documents sufficient to demonstrate the accounting practices used by You to account for sales, profit margin, cost, income for and/or from, or other financial benefit realized by You, Relating to the Accused Features or Accused Instrumentalities including the Accused Features.

REQUEST FOR PRODUCTION NO. 31:

All Documents supporting and refuting Your assertion that the Patents-in-Suit are not Infringed, directly or indirectly, by You.

REQUEST FOR PRODUCTION NO. 32:

The internal wikis, share drives, or other collaborative workspaces that explain the Accused Products and/or Accused Features, with internal linking and file structures intact.

REQUEST FOR PRODUCTION NO. 33:

All Documents Concerning the planning, research, development, design, and/or creation of the Accused Instrumentality(ies) or Accused Feature(s), including Documents sufficient to show the facts and circumstances Concerning the first operation embodiment(s), the individuals

involved in the design(s), the individual(s) involved in the decision to use/implement the design(s), and transition from design to first commercial availability.

REQUEST FOR PRODUCTION NO. 34:

All Documents Concerning the contracts, agreements, terms or conditions between You and customers, potential customers, subscribers, vendors, partners, resellers, value added resellers, and/or other similar parties that use or have permission to use, sell, or offer to sell the Accused Instrumentality(ies) and/or Accused Feature(s) (in whole or in part).

REQUEST FOR PRODUCTION NO. 35:

All Documents provided to Your customers or potential customers to whom You had made sales or offers of sale relating to the Accused Instrumentality(ies) and/or Accused Feature(s), including without limitation directions or suggestions Concerning how to configure, install, use, implement, assemble, access, modify, configure, operate or otherwise control the Accused Instrumentality(ies) or Accused Feature(s).

REQUEST FOR PRODUCTION NO. 36:

With respect to the Accused Instrumentality(ies) and/or Accused Feature(s), all Documents Concerning the first date of Your actual or expected:

- a. use of the Accused Instrumentality(ies) and/or Accused Feature(s);
- b. manufacture of the Accused Instrumentality(ies) and/or Accused Feature(s);
- c. sale of the Accused Instrumentality(ies) and/or Accused Feature(s);
- d. offer for sale of the Accused Instrumentality(ies) and/or Accused Feature(s);
- e. import of the Accused Instrumentality(ies) into the United States and/or Accused Feature(s); or
- f. export of the Accused Instrumentality(ies) and/or Accused Feature(s) from the United States.

REQUEST FOR PRODUCTION NO. 37:

Documents sufficient to show, on a quarterly and yearly basis from December 22, 2016 to present, the following information for the Accused Instrumentalities on a product-by-product basis:

- a. the actual or expected total number of units sold or offered for sale in the United States;
- b. the per-unit average sales price of the Accused Instrumentalities in the United States;
- c. the revenues net of any returns, allowances, or credits from sales of the Accused Instrumentalities in the United States;
- d. the costs of goods sold of all the costs relating to the Accused Instrumentalities in the United States;
- e. the general and administrative costs attributable to the Accused Instrumentalities sold in the United States;
- f. the sales and marketing expenses attributable to the Accused Instrumentalities sold in the United States;
- g. the research and development expenses attributable to the Accused Instrumentalities sold in the United States; and
- h. all other expenses attributable to the Accused Instrumentalities sold in the United States.

REQUEST FOR PRODUCTION NO. 38:

All Documents relating to any joint defense agreement between Absolute and any one or more of Dell, HP, Lenovo, and Microsoft.

REQUEST FOR PRODUCTION NO. 39:

All Documents received by You in response to any subpoenas propounded by You in this litigation.

REQUEST FOR PRODUCTION NO. 40:

All documents relating to secondary factors of non-obviousness, including those that refer or relate to whether:

- the inventions claimed in the Asserted Patents satisfied one or more long-felt needs in the art;
- each Accused Instrumentality has enjoyed commercial success;
- any person has recognized the significance of the inventions of the Asserted Patents;
- any person has recognized the significance of the contributions of the inventors of the Asserted Patents to the field of the Asserted Patents;
- any person expressed initial skepticism about the inventions of the Asserted Patents;
- any person has acknowledged the validity of the Asserted Patents;
- any person has copied the inventions of the Asserted Patents;
- any person has incorporated the inventions of the Asserted Patents into any subsequent patent filing or device;
- there was a long-felt need in the industry to obtain the Accused Instrumentalities;
- or
- any documents or things concerning or evidencing a belief that any party or person achieved commercial success using the inventions of the Asserted Patents.

REQUEST FOR PRODUCTION NO. 41:

All documents and things relating to industry analysis, commentary, or recognition of deficiencies of and/or needs met by the Accused Instrumentalities.

REQUEST FOR PRODUCTION NO. 42:

All documents and things relating to the advantages, if any, offered by the Accused Instrumentalities over competitor products and any evidence of such advantages, including communications among Defendants, their customers, or licensees concerning any such advantages as well as any surveys concerning customer preferences.

REQUEST FOR PRODUCTION NO. 43:

All documents concerning the realized or expected commercial success, commercial performance, customer satisfaction, customer demand, critiques, problems, shortcomings, challenges, technical success, technical performance, financial performance, financial impact, suitability, competitive position, and/or market position of the Accused Instrumentalities.

REQUEST FOR PRODUCTION NO. 44:

All Documents relating to Your first awareness of each Asserted Patent.

REQUEST FOR PRODUCTION NO. 45:

All Documents and Communications relating to or reflecting Your awareness of any of the Asserted Patents, or any Related Patent or Application.

REQUEST FOR PRODUCTION NO. 46:

All documents and things concerning any of Your policies or procedures for determining whether any of Your products or product features have infringed, or would or might infringe, the patent rights of another.

REQUEST FOR PRODUCTION NO. 47:

All Documents relating to the design, development, functionality, or testing of any Accused Feature or Accused Instrumentality, including specifications, requirement documents, schematics, manuals, drawings, guides, instructions, layouts, and notebook entries, programming instructions, and source code.

REQUEST FOR PRODUCTION NO. 48:

With respect to the Accused Instrumentalities, all documents concerning relevant events for establishing a date of the hypothetical negotiation, including the first date of the actual or expected:

- use, disclosure, or demonstration of the Accused Instrumentalities;
- sale of the Accused Instrumentalities;
- offer for sale of the Accused Instrumentalities;
- import of the Accused Instrumentalities into the United States; or
- export of the Accused Instrumentalities from the United States.

REQUEST FOR PRODUCTION NO. 49:

All Documents generated or used during the research and development of the Accused Instrumentalities and each variation thereof.

REQUEST FOR PRODUCTION NO. 50:

Source code, comments, change logs, and notes for each version (including minor releases, bug fixes, and rejected code) of every Accused Instrumentality from December 14, 2016 to date.

REQUEST FOR PRODUCTION NO. 51:

All Communications with any OEM or Third Party regarding Softex.

REQUEST FOR PRODUCTION NO. 52:

All agreements and Communications with Phoenix regarding any Accused Functionality.

Dated: June 22, 2023

Respectfully submitted,
McKool Smith, P.C.

/s/ Blair M. Jacobs

Blair M. Jacobs (WDTX. Bar No. 32010)
bjacobs@McKoolSmith.com
Christina A. Ondrick (WDTX. Bar No. 494625)
condrick@McKoolSmith.com
John S. Holley (SBN 24078678)
jholley@McKoolSmith.com
1999 K Street, NW Suite 600
Washington, D.C. 20006
Telephone: (202) 370-8300
Facsimile: (202) 370-8344

John B. Campbell (SBN 24036314)
jcampbell@McKoolSmith.com
McKool Smith, P.C.
303 Colorado Street, Suite 2100
Austin, TX 78701
Telephone: (512) 692-8700
Facsimile: (512) 692-8744

Casey L. Shomaker (SBN 24110359)
cshomaker@McKoolSmith.com
Matthew Folks (SBN 24116368)
mfolks@McKoolSmith.com
McKool Smith, P.C.
300 Crescent Court, Suite 1500
Dallas, TX 75201
Telephone: (214) 978-4218
Facsimile: (214) 978-4044

ATTORNEYS FOR PLAINTIFF
SOFTEX LLC

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that, on June 22, 2023, all counsel of record who have appeared in this case are being served with a copy of the foregoing via electronic mail.

/s/ Blair M. Jacobs

Blair M. Jacobs